



Attorney Docket No.: F-310 (532/21)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:  
Errico et al.

Application No.: 10/784,645

Group Art Unit: 3732

Examiner: Not Yet Assigned

Filed: February 23, 2004

For: WEDGE PLATE INSERTER/IMPACTOR  
AND RELATED METHODS FOR USE IN  
IMPLANTING AN ARTIFICIAL  
INTERVERTEBRAL DISC

07/26/2004 SMINASS1 00000019 10784645

01 FC:1460

130.00 OP

**MS: MISSING PARTS**

Commissioner of Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION IN RESPONSE TO NOTICE OF OMITTED  
ITEMS IN A NONPROVISIONAL APPLICATION**

Sir:

This is submitted in response to the Notice mailed May 19, 2004 (a copy of which is attached). Applicants petition the office to accept the Preliminary Amendment filed herewith, along with the appended drawing sheets, and accord to the present submission a filing date of February 23, 2004. The facts in support of this petition are set forth herein. Also enclosed herewith is a check for \$130.00 to cover the petition fee under 37 C.F.R. § 1.17(h).

The instant application was filed on February 23, 2004. The attached drawing sheets containing FIGS. 1g-1n were inadvertently omitted from the drawing sheets that were originally filed

I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: MS: Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: July 16, 2004

Signature:

Print Name: Timothy X. Gibson

07/21/2004 SMINASS1 00000055 10784645

01 FC:1051

130.00 OP

Adjustment date: 07/26/2004 SMINASS1 00000055 10784645  
01 FC:1051

with the instant application. Simultaneous with the filing of this Petition Applicants are filing a preliminary amendment requesting that the Examiner review and enter drawing sheets containing FIGS. 1g-1n.

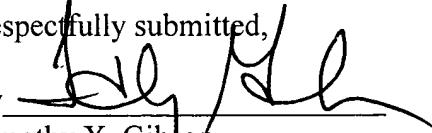
Applicants submit that the instant application, and the drawings appended to the Preliminary Amendment filed herewith, should be accorded the original filing date of February 23, 2004 despite that the drawing sheets containing FIGS. 1g-1n were inadvertently omitted from the application papers as filed. The addition of the drawing sheets containing FIGS. 1g-1n does not introduce new matter into the application. Indeed, the instant application is a continuing application of U.S. Patent Application No. 10/282,356 and incorporates that application by reference. As U.S. Patent Application No. 10/282,356 includes FIGS. 1g-1n, Applicants are entitled to introduce drawing sheets containing same in the instant application without adding new matter. Further, the specification of the instant application discusses FIGS. 1g-1n in detail.

In view of the foregoing, the subject matter of FIGS. 1g-1n was present in the instant application on the original filing date of February 23, 2004, despite that a hard copy of FIGS. 1g-1n was inadvertently omitted on the date the application papers were filed.

Accordingly Applicants submit that the instant application should be accorded a filing date of February 23, 2004. Early and favorable action is earnestly solicited.

In the event there are any further fees due and owing in connection with this matter, please charge same to our Deposit Account No. 11-0223.

Dated: July 16, 2004

Respectfully submitted,  
By   
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